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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,447

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Max D. Woodhams

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EXAMINER

KRUER, STEFAN

ART UNIT

PAPER NUMBER

3654

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,447	<b>Applicant(s)</b> WOODHAMS, MAX D.	
	<b>Examiner</b> Stefan Krueer	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22 - 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22 - 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Request for Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 September 2010 has been entered.

### ***Specification***

The disclosure remains objected to under 37 CFR 1.71 in that the following item is not understood.

A “fixing structure” as recited in **Claims 25 – 26 and 30 - 31** is neither explicitly supported by the specification nor by the claims as originally filed. However, a “fixing means” is mentioned on Page 3, Line 18 and defined as “two locking bolts”, which are recited as comprising a “fixing structure” in **Claims 26 and 31**.

However, as previously objected, a “fixing structure” is not adequately described with respect to a structure and arrangement in relation to the footrest and bracket. Do the bolts, comprising said fixing means and when loosened (and/or removed ?), allow translation of the footrest along an ***undisclosed*** arced slot of an ***undisclosed, underlying plate or bracket*** (i.e., comprising said “fixing structure”), and said bolts, upon tightening (and/or installation ?), secure said footrest with respect to said undisclosed plate or bracket?

It is understood that a “fixing structure” was recited in cancelled Claim 19, though said structure is neither explicitly supported by the specification nor by the claims as originally filed; consequently, such structure requires interpretation as above since it has not been described/depicted.

The specification reviews in broad language a “fixing means such as lock bolts 21”, for which ***no complementary structure, i.e. “fixing structure” as claimed, is described/depicted***. Consequently, *unnecessary* interpretation as to a defined scope of the cooperative elements, their structure as well as their interaction is required.

Applicant is required to submit an amendment, which clarifies the disclosure so that the examiner may ensure a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to *adequately* show the fixing means and, more critically, the fixing structure, as respectively referenced in the specification and recited in **Claims 26 and 31**.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

**Claim 31** is objected to because of the following informalities: In Line 1, "compress" should be written as "comprises". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 25 – 26 and 30 - 31** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**Claims 25 and 30** commonly recite a fixing structure, as previously recited in cancelled Claim 19, yet not finding explicit support in the specification, wherein "fixing means" is referenced in the specification and defined as locking bolts 21, which contradicts the recitation common to **Claims 26 and 31**. Consequently, and as reviewed above, *a detailed description of said fixing structure remains lacking*.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 22 – 23 and 25 - 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Voves et al (4,913,264) in view of Wu (6,206,119) and in further view of Fortnam (3,820,844).

Re: **Claims 22 – 23 and 25 - 26**, Voves et al, as previously cited for pertinence, disclose their stairlift chair (22, Fig. 1) in combination with a stairlift (10) comprising a footrest (24), said footrest having a geometric centerline, an outer edge (open portion opposite inner portion, said inner portion nearest to lower housing (20)), an inner edge (approx. 20), and side edges (144, 146) joining respective outer margins of the inner edge and the outer edge (each side edge connecting said outer edge to said inner edge), wherein their footrest is pivotally mounted (at 148) with respect to the stairlift chair about an axis, said axis lying closer to said inner edge than to said outer edge, and wherein fixing structure (152, comprising 156, 154, 160) is provided to fix the position of the footrest relative to the chair about the pivot axis; however,

Voves et al are silent with respect to their inner edge is shorted than their outer edge, their footrest pivotally mounted about a vertical pivot axis and a position of their pivot axis lying on both a plane through a central axis of their stairlift chair and a geometric centerline of their footrest.

Attention is direct to Wu who teaches his stairlift chair (12, Fig. 1) comprising a footrest (54) having a geometric centerline wherein said footrest has an inner edge (approx. 60) shorter than an outer edge of said footrest, wherein said inner edge is substantially opposite said outer edge, their footrest being pivotally mounted (at 58) to their stairlift chair about an axis.

It would have been obvious to one of ordinary skill in the art to modify the reference of Voves et al with the teaching of Wu to provide a stairlift chair with a pivotally mounted footrest having opposing inner- and outer edges, wherein said inner edge is shorter than said outer edge for compact arrangement and optimized load-bearing area, therein greater versatility in meeting applications.

However, Wu is silent with respect to his footrest pivotally mounted about a vertical pivot axis and a position of their pivot axis lying on both a plane through a central axis of their stairlift chair and a geometric centerline of their footrest.

Attention is directed to Fortnam who teaches his footrest (26, Fig. 1) of his chair (13, 14) wherein a pivot position of his footrest lies on both a central axis (12) of his chair and a geometric centerline of his footrest, wherein said footrest has an inner edge (27) shorter than an outer edge (31) of said footrest, wherein said inner edge is substantially opposite said outer edge, his footrest being pivotally mounted (about 33, Fig. 6) to his chair about said axis, said axis being a substantially vertical pivot axis and wherein the footrest is arranged to be fixed in more than one pivotal orientation about the vertical pivot axis.

It would have been obvious to one of ordinary skill in the art to modify the invention of Voves et al and Wu with the teachings of Fortnam to provide a footrest being pivotally mounted about a vertical axis of a chair, an inner edge of said footrest being shorter than an outer edge of said footrest and a pivot position of said footrest lying on a central axis of a stairlift chair, and a fixing structure of simplified construction requiring only the implementation and rotation of a tightening/releasing knob, in all for benefits of maintaining a compact, symmetrical and cost-effective arrangement therewith also minimize hindrances to users of associated stairs, offset loading for stability and esthetics.

**Claims 24 and 27 – 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Voves et al in view of Wu and Fortnam and in further view of Rehder (4,722,356).

With respect to **Claims 24 and 27 – 31**, Voves et al, Wu and Fortnam disclose the stairlift chair and footrest of **Claims 22 – 23 and 25 - 26**; however, with respect to **Claims 24, 27 and 29**, Fortnam is silent with respect to allowing clearance between his footrest and the stairs of Voves et al and Wu.

Attention is directed to Rehder, as previously cited for pertinence to the instant invention, teaches his footrest (50, Fig. 1) having a geometric centerline and a substantially vertical pivot axis about which said footrest is pivotally mounted, wherein said footrest is structured and arranged to be fixed in a selected one of the plurality of

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positions (Fig. 4), and wherein his footrest affords clearance between his footrest and the stairs.

It would have been obvious to one of ordinary skill in the art to modify the invention of Voves et al, Wu and Fortnam with the teaching of Rehder to provide a footrest that allows clearance between the footrest and stairs for flexibility in use.

### ***Response to Arguments***

Applicant's arguments filed 10 September 2010 have been fully considered but they are not persuasive.

Though applicant has re-written the claims, the claims recite subject matter requiring the prior art of record of the previous office action, excluding the newly applied reference of Rehder with respect to the intended use with respect to allowable clearance of a footrest and stairs in a plurality of positions.

With respect to the objections to the drawings and specification, applicant's arguments are appreciated; however, the objections have been further expounded to more clearly relay Examiner's issue with respect to the disclosed "fixing means" and the undisclosed "fixing structure". Though a "fixing structure" can be surmised, clarification is required to insure any interpretation that may lead to an erroneous construction is not introduced.

Applicant's argument with respect to the disclosure of Voves et al not requiring any modification as taught by Wu is appreciated; however, the application of teachings found in related, pertinent art would lead one having ordinary skill in the art to make the combination for obvious operative and, as applicant proffered, esthetic and thereby further commercial, benefits. Simply the silence with respect to specific feature(s) of a base reference does not preclude the applicability of teachings from secondary references.

With respect to the footrest of Fortnam, Fortnam was cited for a pivotable footrest having a form of a footrest as claimed. Applicant's argument with respect to the footrest of Fortnam having obstructing legs and thereby potentially conflicting with the new claim



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language of Claim 27 as addressed above is appreciated, for which the teachings of Rehder were applied. Again, Fortnam was cited for teaching a footrest that pivots into one of a plurality of positions about a central axis of a chair, wherein Fortnam's footrest "... is ... resting in slidable contact engagement on the top surface of the ring ... 19", of which the teaching of Rehder precludes requirement for promotion of clearance intermediate the footrest and stairs.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571.272.6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/  
Supervisory Patent Examiner, Art Unit 3654

SHK